

REMARKS

Applicant is in receipt of the Office Action mailed April 19, 2004. Reconsideration of the present case is earnestly requested in light of the following remarks.

Applicant thanks Examiner for the Interview of July 13, 2004. In this interview, Applicant and Examiner discussed the current rejections. As a result of the interview, Applicant agreed to amend the independent claims to clarify the nature of a graphical program, specifically, that a graphical program is a program that is executable by a computer system, and that graphical program nodes are included in frames of the graphical program in response to user input. The Examiner stated that this would overcome the art of record, but that Examiner may perform a new search.

§102 Rejections

Claims 1-10 and 13-26 were rejected under 35 U.S.C. 102(b) as being anticipated by Kaiser et al. (U.S. Pat. No. 4,970,664, hereinafter "Kaiser"). Applicant has amended independent claims 1, 14, 21, and Applicant submits that claims 1-29, as currently presented, are allowable based on at least the following reasoning.

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Applicant respectfully submits that Applicant's invention as recited in amended claim 1 includes:

1. (Currently Amended) A method for creating a graphical program including a plurality of portions of graphical source code to be executed sequentially, the method comprising:

displaying a plurality of frames in the graphical program such that two or more frames are visible at the same time, wherein the graphical program comprises a plurality of interconnected graphical program nodes that graphically represents functionality of the graphical program, and wherein the graphical program is executable by a computer system to perform the functionality;

including a portion of graphical source code in each frame in response to user input;

wherein for each frame, said including a portion of graphical source code in the frame in response to user input comprises including one or more graphical program nodes in the frame in response to user input;

wherein the plurality of frames define an execution order for the plurality of portions of graphical source code such that during execution of the graphical program the plurality of portions of graphical source code are executed sequentially in accordance with the execution order defined by the plurality of frames.

Applicant respectfully submits that Kaiser nowhere teaches or suggests these features. Thus, Applicant respectfully submits that claim 1 is patentably distinguished over Kaiser. Accordingly, Applicant respectfully submits that, at least for the reason presented, claim 1 and those dependent therefrom are allowable.

Claims 14 and 21 include limitations similar to claim 1, and so the arguments presented above apply with equal force to these claims, as well. Applicant respectfully submits that for at least the reasons presented above, claims 14 and 21, and those claims respectively dependent thereon are patentably distinguished over Kaiser and are allowable.

Removal of the §102 rejections of claims 1-10 and 13-26 is respectfully requested.

§103 Rejections

Claims 11 and 12 were rejected under 35 U.S.C. 103(a) as being unpatenable over Kaiser and Kodosky et al. (U.S. Pat. No. 5,301,301, hereinafter “Kodosky”). This rejection is respectfully traversed.

The Office Action cites various of the dependent claims as being rejected under 35 U.S.C. 103. ^gThe independent claims have been amended to overcome rejections under 35 U.S.C. 102. Applicant respectfully submits that the amended independent claims are nonobvious and are allowable, as well. Applicant respectfully submits: “If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988)” as stated in the MPEP §2143.03. With this in mind, Applicant respectfully submits that claims 1-31 are nonobvious over Kaiser and Kodosky and are allowable. Additionally, the following arguments are presented to further clarify the nonobviousness of claims 11 and 12.

The Examiner states in the Office Action: “With regard to claim 11. . .It would have been obvious to one of ordinary skill in the art, having the teachings of Kaiser and Kodosky before him at the time the invention was made to modify the circuit program of Kaiser to include the parallel execution of two independent items as did Kodosky. One would have been motivated to make such a combination because electronic circuits have this functionality, so it would be useful to be able to simulate it” (*emphasis added*).

Kaiser’s Abstract teaches and discloses:

A screen display includes a path context window for displaying a signal path in its entirety apart from the schematic sheets on which the path portions appear. The window contains multiple display portions each graphically displaying a path portion appearing on a separate schematic sheet. The multiple display portions are arranged adjacent to each other to display the entire signal path as continuous. The screen display also includes a path list window and may include view sheet windows each showing a schematic sheet of a path portion in the path context window.

A user selects a path from the path list window, which causes a path context window containing the selected path to appear. (*emphasis added*)

Kaiser also teaches and discloses:

In accordance with the invention, a screen display is described for displaying a signal path in its entirety in isolation from the schematic sheets on which the path portions appear. The screen display comprises multiple display portions, each portion graphically displaying in isolation a path portion appearing on a separate schematic sheet. The multiple display portions are arranged adjacent to each other to display the signal path in its entirety in isolation from the schematic sheets. (Kaiser col 2, lines 32-40) (*emphasis added*)

Applicant respectfully submits that although Kaiser discloses portions of schematics having a plurality of electrical paths (in Kaiser's Figure 2, for example), Kaiser clearly teaches and discloses isolating and displaying a single path. Kaiser provides no teaching, disclosure, suggestion, or motivation to modify the circuit program of Kaiser to include the parallel execution of two independent items as did Kodosky. Therefore, Applicant respectfully submits that a *prima facie* case of obviousness has not been established to reject claim 11. Accordingly, Applicant respectfully submits that claim 11 is nonobvious over the cited art.

Furthermore, Applicant respectfully submits that with Kaiser teaching the isolation of a single path, combining the parallel execution of two independent items as within Kodosky would change the principle operation of what is taught and disclosed in Kaiser. As stated in the MPEP §2143.01 "If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti* , 270 F.2d 810, 123 USPQ 349 (CCPA 1959). . ." (*emphasis added*). Thus, Applicant respectfully submits that a *prima facie* case of obviousness has not been established to reject claim 11, and thus, claim 11 is nonobvious over the cited art.

Applicant thus submits that neither Kaiser nor Kodolsky, either singly or in combination, teaches Applicant's invention as presented in claim 11. Thus, for at least the reasons provided above, Applicant respectfully submits that claim 11 is allowable.

The Examiner states in the Office Action: "With regard to claim 12. . .Kaiser, however, doesn't teach a frame containing another frame of graphical source code, and displaying a frame that contains another frame containing graphical source code. Kodosky teaches a circuit grouping and execution similar to Kaiser, but further teaches that a circuit can contain a frame that contains a second frame with a plurality of graphical source code included (see figure 3 and column 1, lines 23-43). Kodosky further teaches displaying this frame that contains another frame containing graphical source code wherein a plurality of frames are displayed a [sic] the same time (see figure 3 and column 1, lines 23-43). It would have been obvious to one of ordinary skill in the art to modify Kaiser to include the ability to embed a frame in another frame as did Kodosky. One would have been motivated to make such a combination because electronic circuits have this functionality so it would have been useful to be able to simulate it." (*emphasis added*)

Applicant respectfully submits that Applicant has examined many complex electronic circuits and has not found an electronic circuit containing a frame that contains a second frame with a plurality of graphical source code included. Even if Kaiser's prior art "may be capable of being modified to run the way the [Applicant's] apparatus [invention] is claimed, there must be a suggestion or motivation in the reference to do so." 916 F.2d at 682, 16 USPQ2d at 1432 (*emphasis added*). Applicant respectfully submits that Kaiser does not provide any teaching, disclosure, suggestion, or motivation to modify Kaiser to include functionality in Kodosky. Applicant thus submits that neither Kaiser nor Kodolsky, either singly or in combination, teaches Applicant's invention as presented in claim 12. Applicant respectfully submits that a *prima facie* case of obviousness has not been established. Accordingly, Applicant respectfully submits that claim 12 is nonobvious over the cited art, and is thus allowable.

Removal of the §103 rejections of claims 11 and 12 is respectfully requested.

CONCLUSION


In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-49000/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Request for Approval of Drawing Changes
- ☒ Request for Continued Examination
- ☐ Check in the amount of \$ for fees ().
- ☐ Other:

Respectfully submitted,



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